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Federal Communications Commission

DA 98-2481

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Telecommunications Relay Services,
and the Americans with Disabilities
Act of 1990

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CC Docket No. 90-571

ORDER

Adopted: December 2, 1998

Released: December 2, 1998

By the Deputy Chief, Common Carrier Bureau:

I. INTRODUCTION

1. On October 1, 1998, pursuant to section 64.604(c)(4)(iii)(H) of the Commission's Rules,¹ the Telecommunications Relay Services (TRS) Fund Administrator (Administrator); the National Exchange Carrier Association, Inc. (NECA), filed its annual report. The report included the proposed TRS payment formula for the 1999 calendar year, and the fund size estimate for the period April 26, 1999 through March 26, 2000.² This filing was placed on public notice³ and comments were filed by two parties.⁴

2. In this Order, we approve NECA's proposed payment rate to TRS providers for 1999. In addition, we calculate the carriers' contribution factor to the TRS Fund for the April 26, 1999 through March 26, 2000 period,⁵ and we adopt a contribution factor of .00038. We also adopt the 1999 TRS Fund Worksheet, FCC Form 431.⁶

¹ 47 C.F.R. § 64.604(c)(4)(iii)(H).

² Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CC Docket No. 90-571, filed October 1, 1998 (NECA Filing).

³ See Telecommunications Relay Services (TRS) Fund Administrator Files Annual Report Including Fund Size Estimate And Payment Formula For 1999, *Public Notice*, DA 98-2010 (October 5, 1998).

⁴ Comments were filed by Mr. Stephen A. Gregory and Ms. Judith A. Viera. Mr. Gregory and Ms. Viera are members of NECA's Interstate TRS Advisory Council. The purpose of the Council is to monitor TRS cost recovery matters. See 47 C.F.R. § 64.604(c)(iii)(H).

⁵ See 47 C.F.R. § 64.604(c)(4)(iii)(B).

⁶ See Appendix A.

II. BACKGROUND

3. TRS permits persons with hearing and speech disabilities to communicate by telephone with persons who do not have such disabilities. TRS facilities are equipped with special equipment and staffed by communications assistants (CAs) who relay conversations between people who use text telephones and people who use traditional telephones.⁷ Title IV of the Americans with Disabilities Act of 1990 (ADA)⁸ requires the Commission to ensure that TRS is available, to the extent possible, in the United States to individuals with hearing and speech disabilities. To fulfill this mandate, in 1991, the Commission adopted rules that require the provision of TRS,⁹ set minimum operational, functional, and technical standards for TRS providers, and established a shared-funding mechanism (TRS Fund) for compensating TRS providers for the costs of providing interstate TRS.¹⁰ The Commission appointed NECA to be the TRS Fund Administrator,¹¹ and directed NECA to establish an unpaid, voluntary advisory committee to monitor cost recovery matters.¹²

4. The Commission's rules require all carriers providing interstate telecommunications services to contribute to the TRS Fund.¹³ The amount contributed is the product of the carrier's gross interstate revenues for the previous year and a contribution factor determined annually by the Commission.¹⁴ Contributions are calculated in accordance with a TRS Fund Worksheet. The TRS Fund Worksheet is prepared each year by the Commission and published in the Federal Register.¹⁵ Payments from the fund are made by the Administrator to eligible TRS providers and

⁷ See 47 C.F.R. §§ 64.601 (5), (7).

⁸ Pub. L. No. 101-336, § 401, 104 Stat. 327, 366-69 (adding Section 225 to the Communications Act of 1934, as amended, 47 U.S.C. § 225).

⁹ See 47 C.F.R. § 64.603.

¹⁰ See 47 C.F.R. § 64.604.

¹¹ See Telecommunications Relay Services, and the Americans with Disabilities Act of 1990, *Third Report and Order*, CC Docket No. 90-571, 8 FCC Rcd 5300, 5300-01 (1993); Appointment of the Telecommunications Relay Services (TRS) Fund Administrator and Composition of the TRS Advisory Committee, *Memorandum Opinion and Order*, CC Docket No. 90-571, 10 FCC Rcd 7223 (Com. Car. Bur. 1995).

¹² 8 FCC Rcd at 5301; 47 C.F.R. § 64.604(c)(4)(iii)(H). See also Telecommunications Relay Services, and the Americans with Disabilities Act of 1990, *Second Order on Reconsideration and Fourth Report and Order*, CC Docket No. 90-571, 9 FCC Rcd 1637, 1639-40 (1993).

¹³ 47 C.F.R. § 64.604(c)(4)(iii)(A).

¹⁴ 47 C.F.R. § 64.604(c)(4)(iii)(B).

¹⁵ *Id.*

are designed to cover the latter's reasonable costs incurred in providing interstate TRS.¹⁶ TRS providers must file with NECA "true and adequate data necessary to determine TRS Fund revenue requirements and payments."¹⁷ Based on this information, the Administrator files with the Commission each year a proposed payment formula and estimated fund requirements for the following year.¹⁸ This payment formula is subject to Commission approval.¹⁹ Last year, based on the Administrator's filing, the Commission adopted a contribution factor of .00039 for the April 1998 through March 1999 funding period, and approved a payment rate of \$1.168 per interstate TRS minute of use for the 1998 calendar year.²⁰

III. DISCUSSION

5. NECA Filing. NECA proposes a payment rate of \$1.179 per interstate TRS minute of use for the 1999 calendar year, a .9 percent increase from the 1998 payment rate.²¹ NECA also projects a nationwide interstate TRS demand of 38 million minutes for the April 1999 through March 2000 period.²² The payment rate and demand estimate are based on cost and demand data submitted to NECA by TRS providers pursuant to section 64.604(c)(4)(iii)(C) of the Commission's rules.²³ For the April 1999 through March 2000 period, NECA estimates reimbursements to TRS providers of \$44.4 million, administrative costs of \$403,000, and interest income of \$1,530,000 for a total estimated Fund requirement of \$43.3 million.²⁴ NECA states, however, that an approximate \$9.3 million surplus in funds from last year's TRS Fund will decrease the actual April 1999 - March 2000 Fund requirement to \$34 million.²⁵

¹⁶ 47 C.F.R. § 64.604(c)(4)(iii)(E).

¹⁷ 47 C.F.R. § 64.604(c)(iii)(4)(C).

¹⁸ 47 C.F.R. § 64.604(c)(4)(iii)(H).

¹⁹ 47 C.F.R. § 64.604(c)(4)(iii)(E).

²⁰ See Telecommunications Relay Services, and the Americans with Disabilities Act of 1990, *Order*, 12 FCC Rcd 22046 (1997).

²¹ See NECA Filing at 10-11.

²² See NECA Filing at Exhibits 2 and 4.

²³ 47 C.F.R. § 64.604(c)(4)(iii)(C).

²⁴ NECA Filing at Exhibit 4.

²⁵ *Id.*

6. Comments. Mr. Gregory and Ms. Viera assert that the TRS reimbursement formula should be tied to the quality and efficiency of TRS.²⁶ Ms. Viera contends that the Commission should require: (1) that states remit to the TRS Interstate Fund a portion of any liquidated damages recovered from TRS providers in an amount that is proportionate to the volume of interstate calls made on the provider's facilities throughout any period of time that the TRS provider is not in compliance with the terms of its contract; (2) that members of NECA's Interstate TRS Advisory Council be placed in a better position to monitor the quality of service furnished by TRS providers through increased access to, *inter alia*, all confidential TRS reports related to the certification process and responses to the TRS Center Data Request; and (3) that a reimbursable category for research and development expenses be created to encourage the development of new technologies.²⁷

7. Mr. Gregory argues that approval of the payment rate that NECA proposes will violate Section 225(d)(2) of the Communications Act, which requires the Commission to ensure that TRS "regulations ... do not discourage or impair the development of improved technology."²⁸ He asserts that the current rules discourage providers from attempting to improve current technologies, claiming that the TRS reimbursement formula does not include incentives for research and development or depreciation allowances for hardware and software purchases.²⁹ He encourages the Commission to require NECA to use a modified reimbursement formula to account for these items, so as to encourage the improvement of TRS, particularly its transmission speed.³⁰ Mr. Gregory also urges the Commission to direct NECA to "populate the Interstate Relay Advisory Council with at least one member of the speech disabled community."³¹

8. We recognize, along with the commenters, the importance of ensuring quality service for TRS. Indeed, many of the proposals and tentative conclusions reached by the Commission in its recent *Improved Services NPRM* are related to improving the quality of TRS service.³² Mr. Gregory's and Ms. Viera's comments regarding improvement of the quality of TRS service are best addressed in the context of that rule making proceeding, where the record

²⁶ See Mr. Gregory Comments at 2; Ms. Viera Comments at 1-2.

²⁷ See Ms. Viera Comments at 2.

²⁸ See Mr. Gregory Comments at 3.

²⁹ *Id.*

³⁰ *Id.*

³¹ See Mr. Gregory Comments at 4.

³² Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, *Notice of Proposed Rulemaking*, CC Docket No. 98-67, FCC 98-90 (rel. May 20, 1998) ("*Improved Services NPRM*").

will be more fully and appropriately developed. We will therefore include their comments as part of that record and defer further consideration of these issues to that proceeding.

9. We will, however, address in this Order Mr. Gregory's request that the Commission direct NECA to appoint to the Council "a member of the speech disabled community."³³ The Commission's rules require the Council to be an "advisory committee of persons from the hearing and speech disability community, TRS users (voice and text telephone), interstate service providers, state representatives, and TRS providers. . . ."³⁴ To ensure that each of these groups is well represented, the Commission specifically directed that "each group shall select its own representative to the committee."³⁵ To the extent that individuals nominate persons for Council vacancies, we encourage them to consider nominating individuals within these groups that would provide the Council with a diverse range of experiences and perspectives. To the extent that NECA is involved in seeking nominations for Council vacancies, we encourage it to utilize a wide range of resources within these groups to ensure that the Council's membership reflects a broad range of experience and perspectives.

10. Payment Rate. We have reviewed NECA's filing regarding the proposed payment rate, and we find that the rate will compensate TRS providers for the reasonable costs of providing interstate TRS. Accordingly, pursuant to section 64.604(c)(4)(iii)(E) of the rules, we approve the proposed payment rate of \$1.179 per minute of interstate TRS use for the 1999 calendar year.

11. Contribution Factor. Based upon NECA's estimates, and pursuant to the requirements of section 64.604(c)(4)(iii)(B) of the rules, we calculate a contribution factor of .00038 for the April 26, 1999 through March 26, 2000 period. The contribution factor is based on a projected funding base for 1997 gross carrier interstate revenues of \$9.8 billion, projected 1998 TRS Fund outlays of \$43.3 million, a surplus carryover of \$9.3 million, and a safety margin of 10 percent, for a net 1999 funding requirement of \$38.3 million.³⁶ The new contribution factor should ensure adequate funding of this service pursuant to the requirements of section 225 of the Act, 47 U.S.C. § 225.³⁷

³³ The Commission recently proposed to include speech-to-speech services within the definition of "TRS." See *Improved Services NPRM* at para. 23.

³⁴ 47 C.F.R. § 64.604(c)(4)(iii)(H).

³⁵ *Id.*

³⁶ See Appendix B.

³⁷ Pursuant to 47 U.S.C. § 225(d)(3)(B), "costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service."

12. 1999 TRS Fund Worksheet. Finally, we also adopt the 1999 TRS Fund Worksheet (FCC Form 431), which incorporates the new contribution factor.³⁸ The worksheet is attached as Appendix A. The 1999 TRS Fund Worksheet is subject to the requirements of the Paperwork Reduction Act of 1995,³⁹ and will be submitted to the Office of Management and Budget (OMB) for approval.

13. On September 25, 1998, the Commission released a Notice of Proposed Rulemaking and Notice of Inquiry that proposes, *inter alia*, to replace the existing TRS Fund Worksheet with a Telecommunications Reporting Worksheet.⁴⁰ In the event that the Telecommunications Reporting Worksheet replaces the TRS Fund Worksheet prior to the required April submission of the TRS Fund Worksheet, the TRS contribution rate may change. However, that proceeding would not affect the reimbursement rate adopted herein.

IV. ORDERING CLAUSES

14. Accordingly, IT IS ORDERED, pursuant to section 225 of the Communications Act of 1934, as amended, 47 U.S.C. § 225, and sections 0.91, 0.291, and 65.604(c)(4) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 64.604(c)(4), that: (a) the payment rate of \$1.179 to TRS providers per interstate minute of use is approved, and shall be in effect from January 1, 1999 through December 31, 1999; and (b) the TRS Fund contribution factor shall be .00038 for the period April 26, 1999 through March 26, 2000; and (c) the 1999 TRS Fund Worksheet is hereby adopted, subject to approval by the Office of Management and Budget.

15. IT IS FURTHER ORDERED, that the Secretary shall provide a copy of this Order to each state utility commission and to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Yog R. Varma
Deputy Chief, Common Carrier Bureau

³⁸ See 47 C.F.R. § 64.604(c)(4)(iii)(B).

³⁹ 44 U.S.C. §§ 3501-3520.

⁴⁰ See 1998 Biennial Regulatory Review--Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, *Notice of Proposed Rulemaking and Notice of Inquiry*, CC Docket No. 98-171, FCC 98-233 (rel. September 25, 1998).

Appendix A

TRS Fund Worksheet

Estimated Average Burden Hours Per Response: 2 hours.

Instructions for Completing the Worksheet for Calculating and Filing Carrier Contributions to fund Interstate Telecommunications Relay Service (TRS).

NOTICE TO INDIVIDUALS

Section 64.604(c)(4)(iii) of the Commission's Rules requires all carriers providing interstate telecommunications service to complete this worksheet and to contribute funding for interstate Telecommunications Relay Services (TRS). The collection of information and fees stems from the Commission's authority under the Communications Act of 1934, Sections 4, 201, 211, 218, 219, 220, and 225, as amended, 47 U.S.C. §§ 154, 201, 211, 218, 219, 220, and 225. The data in the report will be used to ensure that carriers properly fund interstate TRS. Selected information provided in the worksheet will be made available to the public in a manner consistent with the Commission's Rules. All carriers providing interstate telecommunications service must file this worksheet. Other telecommunications carriers may voluntarily file this worksheet.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

The foregoing Notice is required by the Privacy Act of 1974, P.L. 93-579, December 31, 1974, 5 U.S.C. 552(a)(e)(3), and the Paperwork Reduction Act of 1980, P.L. 96-511, Section 3504(c)(3).

Public reporting burden for this collection of information is estimated to average 2 hours per response including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Records Management Branch, Washington, DC 20554.

I. Introduction.

On July 15, 1993, the Commission adopted rules that require all providers of interstate telecommunications services to contribute to the provision of TRS based on their proportionate share of gross interstate revenues. Section 64.604(c)(4)(iii) directs carriers to calculate and file their contribution in accordance with a TRS Fund Worksheet.

... Contributions shall be calculated and filed in accordance with a "TRS Fund Worksheet," which will be prepared and published in the Federal Register. The worksheet sets forth information that must be provided by the contributor, the formula for computing the contribution, the manner of payment, and due dates for payments.

II. Filing Requirements and General Instructions.

A. Who must file.

All common carriers providing interstate telecommunications services within the United States or international telecommunications service between U.S. and foreign points must file this worksheet. For this purpose, the United States is defined as the contiguous United States, Alaska, Hawaii, American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Navassa Island, the Northern Mariana Islands, Palmyra, Puerto Rico, the U.S. Virgin Islands, and Wake Island.

For the purpose of calculating TRS contributions, interstate telecommunications service includes, but is not limited to, the interstate portion of the following types of services: cellular telephone and paging; mobile radio; operator services; personal communications service (PCS); access (including Subscriber Line Charges); alternative access and special access; packet-switched; WATS; 800; 900; message telephone service (MTS); private line; telex; telegraph; video; satellite; international; intraLATA; and resale services. Note that all local exchange carriers provide interstate access services, and therefore must file.

Carriers need not file if they provide only intrastate service. Carriers need not file if they did not provide interstate service in calendar year 1998. All such carriers are encouraged to file, however, because all carriers that file will be included in the FCC Carrier Locator. The Carrier Locator is a directory of telecommunications common carriers and is available to the public through the Commission's contract copier or on-line through the FCC-State Link computer bulletin board at (202)-418-0241.

Entities that provide services only to themselves or to commonly owned affiliates need not contribute. For the purpose of determining whether an entity must contribute to support TRS, an carrier provides interstate telecommunications services if it or if any affiliate provides interstate telecommunications, or if it provides any of its carrier services over switches or lines that are also used to provide interstate services. A common carrier dispatch service provider, for example, would be considered to be an interstate carrier if its service area overlapped a state or national boundary or if it derived revenue from interconnecting customers with the public switched network. All carriers that are required to file must include a TRS fund contribution. The minimum contribution is \$100.

Entities may not file summary reports for more than one carrier. Each legal entity that provides interstate telecommunications service must file separately. Entities that have distinct articles of incorporation are separate legal entities. All affiliates or subsidiaries should identify the ultimate controlling parent or entity in Block 4, Line 21 -- Holding Company.

B. When and Where to File

The 1999 TRS contribution period will fund interstate TRS provided between May 1, 1999 and April 30, 2000. Monthly contributions for the 1999 TRS contribution period must be received by the 26th of each month for April 1999 through March 2000. A revised TRS Worksheet will be released for the 2000 TRS contribution period.

The legal name of the carrier and the TRS Company Code should be shown on all checks exactly as it appears on the completed TRS Fund Worksheet. See instructions for Block 1 for more information on TRS Company Codes. **Do not mail the TRS worksheet or TRS contribution checks to the FCC.** Payments must be received by the FCC TRS Fund Administrator -- the National Exchange Carrier Association (NECA) -- no later than the dates indicated below. The filing schedule is as follows:

Mailing Address	Worksheet Due 4/26/99	Payments Due 4/26/99 through 3/26/00 *
NECA TRS P.O. Box 360090 Pittsburgh, PA 15251-6090		Check **
NECA FCC TRS Fund Administration 100 South Jefferson Rd. Whippany, NJ 07981 Telephone: 973-884-8173 Fax: 973-884-8469	Completed Worksheet	Photocopy of check **
<p>* Carriers whose total 1999 TRS contribution is less than \$1200 must pay the total amount to the FCC TRS Fund Administrator no later than April 26, 1999. Carriers whose total 1999 TRS contribution is \$1200 or greater may elect to make twelve equal monthly payments with the first payment due to the FCC TRS Fund Administrator no later than April 26, 1999.</p> <p>** Carriers are encouraged to contact the FCC TRS Fund Administrator to make arrangements for Electronic Funds Transfer.</p>		

C. Rounding of Numbers

All information provided in the worksheet, except the signature, should be neatly printed in ink or typed. Reported revenues in block 2, column (a) may be rounded to the nearest thousand dollars. Regardless of rounding, **all dollar amounts must be reported in whole dollars**. For example, \$2,271,881.93 could be reported as \$2,271,882 or as \$2,272,000, but could not be reported as \$2272 thousand or \$2.272 million. Please enter \$0 if there was no revenue for the line for 1998.

Percentages reported in block 2, column (b) should be rounded to the nearest whole percent. For example, if the ratio of interstate to total revenue was .4269155, then the figure 43% should be reported. Percentages between zero percent and one percent should be reported as one percent. Please enter zero percent if there were no interstate revenues for the line for 1998.

Gross revenues reported on the worksheet should be taken from the corporate books of account. Interstate revenues should be taken directly from corporate books of account or internal data reporting systems, if available. Otherwise, interstate revenues should be calculated as total revenues in column (a) times the percentage shown in column (b). Revenue amounts taken from corporate books or internal data systems may be rounded to the nearest thousand dollars. Calculated interstate revenues should be rounded to the nearest whole dollar and entered in column (c). Similarly, the total contribution (block 3, Line (18)) and amounts enclosed with the filing (block 3, Line (19)) should be rounded to the nearest whole dollar.

D. Compliance

Carriers failing to file the TRS Worksheet in a timely fashion are subject to the fines prescribed in Section 219(b) of the Communications Act of 1934 (the Act). Carriers filing false information are subject to fines or imprisonment as specified in Section 220(e) of the Act. Carriers failing to contribute in a timely fashion are subject to fines prescribed in Section 503(b) of the Act. In addition, Section 64.604(c)(4) of the Commission's Rules authorizes the FCC Fund Administrator to bill a carrier for reasonable costs, including interest and legal fees, that are caused by improper filing of the worksheet or overdue TRS contributions.

III. Specific Instructions.

A. Block 1: Carrier Identification

Block 1 of the TRS Fund Worksheet requires identification information. At the top of Block 1, Carriers are directed to provide their TRS Company Code, which is an identification number assigned by the TRS Fund Administrator. The current administrator, NECA, can be contacted at 973-884-8173. Carriers and their TRS Company Codes are published in the annual FCC report *Carrier Locator: Interstate Service Providers*, which is available on the Commission's **FCC State Link** at <http://www.fcc.gov.ccb.stats> on the World Wide Web. Carriers that have not previously filed a TRS Fund worksheet should enter "NEW FILER" in the space provided for the TRS Company Code.

Line (1) requests the legal name of the carrier as it appears on articles of incorporation or other legal documents. Line (2) requests the Internal Revenue Service (IRS) employer identification number (EIN) for the contributor. If the contributor has more than one EIN it should include the number used to file federal excise taxes. Line (3) requests the principal name under which the company conducts telecommunications activities. This would typically be the name that appears on customer bills, or the name used when service representatives answer customer inquiries. Line (4) provides a check off for the contributor's principal telecommunications activity. Please check the category that best describes the carrier. The following definitions are provided to assist carriers in selecting the category that best describes their offerings and is not intended for any other purpose:

Payphone Service Provider	-- provides customers access to telephone networks through pay telephone equipment, special teleconference rooms, etc. Payphone service providers are also referred to as pay telephone aggregators.
Incumbent LEC	-- provides local exchange service. An incumbent local exchange carrier (ILEC) generally is a carrier that was at one time franchised as a monopoly service provider.
CAP/CLEC	(Competitive Access Provider/Competitive Local Exchange Carrier) -- competes with ILECs to provide local exchange services or telecommunications services that link

	customers with interexchange facilities, local exchange networks, or other customers.
Local reseller	-- provides local exchange or fixed telecommunications services by reselling services of other carriers.
SMR (dispatch)	(Specialized Mobile Radio service providers) -- primarily provides dispatch and mobile services other than wireless telephony.
Cellular/PCS/SMR	(Cellular, Personal Communications Service and Specialized Mobile Radio service providers) -- primarily provides wireless telecommunications services (wireless telephony). This category includes the provision of wireless telephony by resale. An SMR would select this category if it primarily provided wireless telephony rather than dispatch or other mobile services.
Paging and Messaging	-- provides wireless paging or wireless messaging services. This category includes the provision of paging and messaging services by resale.
Wireless Data	-- provides mobile or fixed wireless data services using wireless technology. This category includes the provision of wireless data services by resale.
IXC	(Interexchange Carrier) -- provides long distance telecommunications services substantially through switches or circuits that it owns or leases.
Toll Reseller	-- provides long distance telecommunications services primarily by reselling the long distance telecommunications services of other carriers.
OSP	(Operator Service Provider) -- companies other than ILECs that serve customers needing the assistance of an operator to complete calls, or needing alternate billing arrangements.

Satellite	-- provides satellite space segment or earth stations that are used for telecommunications service.
Prepaid Card	-- provides prepaid calling card services by selling prepaid calling cards to the public or to retailers. Prepaid card providers typically resell the toll service of other carriers and determine the price of the service by setting the price of the card and controlling the number of minutes that the card can be used for.

The form also provides boxes for "Other Local," "Other Mobile," and "Other Toll." If one of these categories is checked, the contributor should describe the nature of the service it provides. For example, a company that provides network access services on behalf of a group of ILECs would identify itself as "Other Local" and enter "ILEC network access" in the space provided.

B. Block 2: Carrier revenue for calendar year 1998

1. Column (a)

Provide gross revenues for all telecommunications services for Calendar 1998. Gross revenues include revenues from regulated, detariffed, and nonregulated telecommunications services. Where two carriers have merged during the year, the successor company should report total revenues for the year for both the predecessor and successor operations. The two carriers, however, would continue to report separately if each maintained separate corporate identities and continued to operate. Gross revenues should include revenues derived from the provision of interstate, international, and intrastate telecommunications services. Gross revenues should not include revenues from non-telecommunications services, such as the lease of customer premises equipment. Gross revenues consist of total revenues billed to customers for service provided during the year with no allowances for uncollectibles or out of period adjustments. Billed revenues may be distinct from booked revenues. NECA pool companies should report the actual gross billed revenues (CABS Revenues) reported to the NECA pool and not settlement revenues received from the pool. For international services, gross revenues consist of gross revenues billed by U.S. carriers with no allowances for settlement payments. International settlement receipts for foreign billed service should not be included. Gross revenues should also include any surcharges on communications services that are billed to the customer and either retained by the carrier or remitted to a non-government third party under contract. Gross revenues should exclude taxes and any

surcharges that are not recorded as revenue but which instead are remitted to government bodies. Carrier revenue data for Calendar 1998 should be taken from the latest available company official records as of April 1999.

Report carrier revenues using the categories provided in Block 2. Carriers required to use the Uniform System of Accounts (USOA) prescribed in Part 32 of the Commission's rules should base their response on their USOA account data. Other carriers should divide gross revenues based on the following descriptions. Carriers that cannot assign revenue to these categories based on account detail alone must use other records maintained by the company or special studies if no such records are available. **Do not use categories 8 or 14 for revenues that logically should be placed in other categories.**

Local Services.

Line (5) -- Local exchange service -- should include the basic local service revenues of local exchange carriers except for local private line revenue, access revenues, and revenues from providing commercial mobile or cellular services to the public. Line (5) should include monthly service, local calling, connection charges, vertical features, inside wiring maintenance, and other local exchange service revenue. For carriers required to use the USOA, Line (5) should include Account 5001 -- basic area revenue; Account 5002 -- Optional extended area revenue; Account 5003 -- Cellular mobile revenue (revenue to the local exchange carrier for messages between a cellular customer and another station within the mobile service area); Account 5050 -- Customer premises revenue; Account 5060 -- Other local exchange revenue; and, Account 5069 -- Other local exchange revenue settlements. Line (5) should also include amounts in Account 5004 -- Other mobile services revenue -- that were derived from connecting with mobile service carriers. Line (5) should include revenue from unbundled network access elements used by resellers to provide local exchange service.

Line (5) should not include Account 5010 -- pay telephone revenues. Such revenues should be included in Line (11) -- Operator service and pay telephone revenues. In addition, Line (5) should not include revenues from the Universal Service Fund and Lifeline Assistance Revenues (reimbursement for the waived portion of subscriber line charges). Such revenues should be included in Line (9) -- Interstate access revenues.

Line (6) -- Local private line service -- should include revenues from providing local services that involve dedicated circuits, private switching arrangements and/or predefined transmission paths. Line (6) should include amounts recorded in Account 5040 -- Local private line revenue. CAPs should use Line (6) to report revenues from dedicated lines

that enable customers to transport calls to interexchange carriers if these services are not offered under federal or state access tariffs.

Line (7) -- Mobile radio, cellular, paging and PCS -- should include revenues from the provision of commercial mobile radio, cellular, SMR, wireless data, paging and personal communications services to the public. Mobile services are wireless communications between wireless equipment, such as cellular phones, and other points. Line (7) should also include amounts in Account 5004 -- Other mobile services revenue -- that were derived from providing service directly to the public.

Line (8) -- Other local -- should include some Account 5200 -- Miscellaneous revenue as well as other local telecommunications service revenue that would not reasonably be included with one of the other local service revenue categories. This line should exclude enhanced services; billing and collection; CPE sale, lease or insurance; published directory revenues; and any non-telecommunications revenues.

Access Services.

Access services only include services that local exchange carriers provide to toll carriers under access tariffs. Toll resellers would typically report access revenues only if they resell LEC dedicated access facilities to high volume toll customers under their own federal or state access tariff.

Line (9) -- Interstate access -- should include revenues in Account 5081 -- End User revenue; Account 5082 -- Switched access revenue; and, Account 5083 -- Special access revenue. In addition, Line (9) should include revenues from any Universal Service Fund and Lifeline Assistance Revenues (reimbursement for the waived portion of subscriber line charges). Line (9) should include Presubscribed Interconnection Carrier Charge (PICC) revenues.

Line (10) -- Intrastate access -- should include revenues in Account 5084 -- State access revenue.

Only two types of end user charges should appear on Line (9) or Line (10): tariffed subscriber line charges and dedicated special access facilities used by the customer to connect directly to a long distance carrier.

Long Distance Services. Long distance or toll services are telecommunications services, wireless or wireline, that enable customers to communicate outside of their local exchange calling areas. Long distance revenues include intrastate, interstate, and international long

distance services. Divide long distance revenues between operator service, other switched service, long distance private line services, and all other long distance services.

Line (11) -- Operator service and Pay Telephone -- should include all calling card or credit card calls, person-to-person calls, and calls with alternative billing arrangements such as third number billing, collect calls, and country-direct type calls. Line (11) should include all charges from toll or long distance directory assistance. In addition, Line (11) should also include all pay telephone revenue, including all revenue in Account 5010. Operator service revenues should include all toll traffic from coin, public and semi-public, accommodation and prison telephones.

Line (12) -- Non-operator switched toll service -- should include amounts from Account 5100 -- Long distance message revenue -- except for amounts reported in Line (11). **Line (12) includes ordinary message telephone service, WATS, subscriber toll-free (e.g. 800 and/or 888), 900, "WATS like" and similar switched services.**

Line (13) -- Long distance private line service -- should include revenue from dedicated circuits, private switching arrangements, and/or predefined transmission paths, extending beyond the basic service area. This category should include revenue from the resale of special access services. Line (13) should include Account 5120 -- Long distance private network revenue.

Line (14) -- All other long distance -- should include all other revenues from providing long distance communications services. Line (14) should include Account 5160 -- Other long distance revenue. Line (14) should contain revenues from providing space segment service and earth station up-link capacity used for providing telecommunications via satellite.

Total the figures in column (a) for Line (5) through Line (14) and enter this amount in Line (15) column (a). This should represent the total telecommunications revenues for the company.

2. Column (b)

For each entry in Line (5) through Line (14), contributors must determine the amount of revenue attributable to interstate and international service. Interstate revenues include all revenues received for calls that do not originate and terminate in the same state. For example, if a cellular carrier collects a fixed amount of revenue per minute of traffic, and 15% of minutes are interstate, then interstate revenues would include 15% of the per minute revenues even if the carrier otherwise treats these as local service charges.

Similarly, if a LEC bills local measured service charges for calls that originate in one state and terminate in another, these billings should be classified as interstate even though they are included in a local service account. Under the Commission's rules, if over ten percent of the traffic carried over a private or WATS line is interstate, then the revenues and costs generated by the entire line are classified as interstate.¹ In general, flat-rated unbundled network access elements should be classified according to the regulatory agency that has primary jurisdiction over the contracts.

Wherever possible, contributors should determine the amount of interstate and international revenue by taking relevant figures from their books of accounts and other internal data reporting systems. In such cases, contributors should enter the booked amount in column (c) and need not enter a percentage in column (b). Otherwise, the contributor must estimate the percentage of gross revenues that are for interstate and international services. Contributor books of accounts, internal data reporting systems, and all special studies and information supporting estimated percentages must be made available to either the FCC or to the TRS Fund Administrator upon request. Do not enter less than one percent if some revenue in a category should be classified as interstate or international.

3. Column (c)

If interstate revenues cannot be taken directly from the carrier's books or internal data reporting systems, multiply the gross revenues reported in column (a) by the interstate percentages reported in column (b), putting the results in column (c). The sum of the figures in column (c), Lines (5) through (14), should be entered in Line (15) column (c).

C. Block 3: Calculation of Contribution

Use block 3 in the worksheet to calculate the TRS contribution for the period April 1999 through March 2000. Total interstate revenues from Line (15) column (c) should be copied to Line (16). This amount must be multiplied by the contribution rate shown in Line (17), with the result entered in Line (18). The contribution rate is 0.00038 for the 1999 filing year.

¹ See 47 C.F.R. § 36.154(a).

If the result of the calculation is less than \$100, then the total contribution for the year is \$100. If the total contribution is less than \$1,200, then the carrier should remit the total contribution with the worksheet. If the total liability is equal to or greater than \$1,200, then the carrier may elect to make 12 equal monthly payments. The monthly contribution should be calculated as the amount in Line (19) divided by 12.0, rounded to the nearest whole dollar. Enter the amount of the April 26, 1999 fund contribution in Line (20). If the carrier elects to make monthly contributions, the eleven additional monthly contributions must be received by the 26th of succeeding months, May 1999 through March 2000.

Section II - B above provides directions for mailing the completed TRS Fund Worksheet and checks for amounts due to the FCC Fund Administrator. Carriers who check the box in Line (19) will receive monthly payment reminders. These reminders will be mailed to the address shown in Line (32). Contact NECA, the TRS Fund Administrator to make other arrangements. Failure to receive a reminder notice will not justify late payment.

Indicate on Line (20) whether this filing is the original filing for 1998 or whether it is a revised filing for 1998.

D. Block 4: Additional Carrier Identification Information

Enter the legal name of the carrier at the top of page two and enter the TRS Company Code on the first line of Block 4. Carriers that have not previously filed a TRS Fund worksheet should enter "NEW FILER" in the space provided for the TRS Company Code.

Line (21) requests the name of the contributor's holding company or controlling entity, if any. This entity need not be a common carrier. **All carrier affiliates or commonly controlled contributors should have the same name appearing in Line (21).** An affiliate is a "person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person."²

Line (22) requests the name of the management company, if the contributor is managed by an entity other than itself. If the filing company and one or more other contributors is commonly managed, then each should show the same management company name on Line (22). Contributors need not be affiliated to have a common management company.

² 47 U.S.C. § 153(1).

The management company would typically be the point of contact for the TRS Administrator.

Line (23) requests the primary carrier identification code (CIC) used by the carrier for the provision of interexchange services, if any. All carriers that purchase feature group B or feature group D access services have one or more CICs. CICs are administered by the North American Numbering Plan Administration, which can be reached at 732-699-5656.

Line (24) requests the complete mailing address of the corporate headquarters. Line (25) requests a telephone number that can be used for customer inquiries.

E. Block 5: Contact Information

The contributor should identify a contact person who can provide clarifications, additional information and, if necessary, who could serve as the first point of contact in the event that either the Commission or the TRS Administrator should choose to audit information provided in the worksheet.

Line (26) should contain the name of the contact person. Lines (27) should contain a telephone number for the contact person. Line (28) should contain a fax number for the contact person. Line (29) should contain an e-mail address for the contact person, if available. Line (30) should contain the complete mailing address of the contact person. The 2000 TRS Fund Worksheet will be sent to this address unless other arrangements are made with the TRS Fund Administrator. Failure to receive a TRS Fund worksheet from the Administrator does not relieve the contributor from its obligation to file in a timely fashion.

Provide a name and billing address in Line (31). Information on establishing electronic fund transfer and monthly billing reminders will be sent to this address if the carrier's contribution is greater than \$1200.

F. Block 6: Certification.

An officer of the contributor must examine the data provided in the TRS Fund Worksheet and certify that the information provided therein is accurate. Line (32) is provided for the signature of the officer. Line (33) should contain the printed name of the officer. Line (34) should describe the position of the officer. Line (35) should contain the date the certification was signed.

Line (36) provides a check off to show whether the worksheet is the original filing for 1998, or whether the worksheet is a revised 1998 filing. A carrier must file a revised worksheet if it discovers an error in the data that it reports or if contact information changes. Carriers generally close their books for financial purposes by April. Carriers should not include (carry back) routine out of period adjustments to revenue data unless such adjustments would affect a reported amount by more than 10%. In the event that a carrier that previously filed a Form 431 no longer exists as of April 26, 1999, the successor company to the carrier's assets or operations must include that carrier's 1998 revenues with its own for the purpose of reporting 1998 revenue and calculating its 1999 TRS fund contribution. Carriers should not file a revised Form 431 with revised revenue information to reflect mergers, acquisitions, or sale of operating units subsequent to April 26, 1999. If the contributor continues to exist as a legal entity, then it must continue to make TRS contributions based on its original filing. If the contributor ceases to exist, the successor company to the carrier's assets or operations is responsible for continuing to make payments for the funding period.

IV. Reminders.

- Each affiliate or subsidiary must file separately. Each affiliate or subsidiary should show the same holding company name on Line (21).
- Provide data for all lines that apply. Show a zero for all items where the carrier had no revenue for calendar 1998.
- International service revenues must be included on the worksheet as part of both column (a) gross revenues and column (c) interstate and international revenues.
- All pay telephone, credit card, debit card, prepaid calling card and operator assisted revenue should be included on Line (11).
- New providers of local exchange service, such as CAPs and CLECs, should report revenue from end users as local exchange service, private line service, or long distance service revenues, as appropriate.
- Include the legal name of the carrier -- as shown on Line (1) -- on all TRS fund checks. Also include the TRS company code on checks. The instructions for Block 1 provides information on the TRS company code.

- File a revised worksheet if you discover a material error in reported revenues or if contact information changes.

Appendix B: Calculation of TRS contribution factor

(DOLLAR AMOUNTS SHOWN IN MILLIONS)

	Interstate Revenues <u>1/</u>		Growth over Prior Year	Projected 1998 Interstate Revenues
	1996	1997		
1 Local exchange, mobile, alternative access and other local	\$2,786	\$3,211	0.153	\$3,701
2 Access service	\$26,111	\$26,421	0.012	\$26,734
3 Switched, private line, and all other toll	\$65,510	\$67,882	0.036	\$70,340
4 Funding Base	\$94,407	\$97,514		\$100,775
5 1999 Projected TRS outlays <u>2/</u>				\$43.251
6 Margin for safety				10.0%
7 Total Requirement (5) * (1 + (6))				\$47.576
8 1998 carryover <u>2/</u>				\$9.287
9 Net 1999 Funding Requirement (7) - (8)				\$38.289
10 Contribution Factor (9) / (4)				0.00038

1/ 1996 data taken from Telecommunications Industry Revenue: TRS Fund Worksheet Data, Industry Analysis Division, November 1997. 1997 data taken from Telecommunication Industry Revenue, Industry Analysis Division, October 1998. For 1997, access revenue represents the sum of interstate figures from Form 457 lines 23b, 24, 35 and 36 for reporting carriers, as shown in Table 6, as well as interstate revenues for non-reporting local and wireless carriers shown in Table 7.

2/ Interstate Telecommunications Relay Service Fund Payment Formula and Fund Size Estimate, National Exchange Carrier Association, Exhibits 2, 3, and 4, October 1, 1998. The 1997 carryover reflects the expected fund balance as of April 26, 1999

1999 FCC Form 431 TRS Fund Worksheet

Please read instructions before completing. Report actual amounts billed to customers and carriers during the year without subtracting uncollectibles or international settlement payments. Report revenues in whole dollars. Do not report negative amounts.

Approval by OMB

3060-

Expires 1/1**Block 1: Carrier Identification**

TRS Company Code

1 Legal name of carrier

2 IRS employer identification number

3 Name carrier is doing business as

4 Principal communications business (check the one that best describes filer - see instructions)

☐ Pay Telephone Service Provider☐ Incumbent LEC☐ CAP/CLEC☐ Local Reseller☐ Other Local☐ SMR (dispatch)☐ Cellular/PCS/SMR (wireless telephony)☐ Paging & Messaging☐ Wireless Data☐ Other Mobile☐ IXC☐ Toll Reseller☐ OSP

If Other Local, Other Mobile or Other Toll is checked, describe carrier type below.

☐ Satellite☐ Pre-paid Card☐ Other Toll**Block 2: Carrier Revenue Data for Calendar Year 1998**

Note: Please report whole dollars even if amounts are rounded

Note: Enter a figure for all revenue elements.
Enter a '0' if none.

Gross Telecommunications
Revenues
(a)

% Interstate
(b)

Interstate
Revenues
(c)

Local Services

5 Local exchange service

\$

% \$

6 Local private line service

\$

% \$

7 Mobile radio, cellular, paging & PCS

\$

% \$

8 Other Local

\$

% \$

Access Services (only includes services that local exchange carriers provide to toll carriers under access tariffs)

9 Interstate access

\$

100 % \$

10 Intrastate access

\$

0 % \$

Long Distance Services (most long distance revenue belongs on line 12)

11 Operator service, card & pay telephone

\$

% \$

12 Non-operator switched toll service

\$

% \$

13 Long distance private line service

\$

% \$

14 All other long distance

\$

% \$

15 Total lines 5 through 14

\$

\$

Block 3: Calculation of Contribution

16 Interstate Revenues from line 15 c

\$

17 Contribution Rate:

0.00038

18 Total CONTRIBUTION for April 1999 through March 2000: line 16 x line 17

[The minimum contribution is \$100. Do not enter less than \$100.]

\$

19 Contribution to be paid this month:

(Enter the amount from line 18 if it is less than \$1200. Otherwise, the contributor may divide the amount on line 18 by 12.0 to calculate equal monthly contributions.)

\$

Check here for monthly billing reminders

☐

20 This filing is:

☐ Original filing☐ Revised filing

Complete page 2

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT
UNDER THE COMMUNICATIONS ACT, 47 U.S.C. 220(e)

Block 4: Additional Carrier Identification Information

TRS Company Code

21 Holding company (if two or more affiliates must file)	
22 Management company (if carrier is managed by another entity)	
23 Principal CIC code used for interexchange service	
24 Complete mailing address of carrier corporate headquarters	
25 Telephone # for customer inquiries	() -

Block 5: Contact Information

26 Name of contact person	
27 Telephone number of contact person	() -
28 Fax number of contact person	() -
29 E-mail address of contact person	
30 Complete mailing address of contact (Filing information and future Telecommunications Relay Service Worksheets will be sent to this address.)	
31 Billing address: (Bills for Telecommunications Relay Service contributions will be sent to this address.)	

Block 6: CERTIFICATION: to be signed by an officer of the carrier

I certify that I am an officer of the above-named carrier, that I have examined the foregoing report and to the best of my knowledge, information and belief, all statements of fact contained in this Worksheet are true and that said Worksheet is an accurate statement of the affairs of the above-named carrier for the previous calendar year.

32 Signature	
33 Printed name of officer	
34 Position with carrier	
35 Date	
36 This filing is:	<input type="checkbox"/> Original filing <input type="checkbox"/> Revised filing

Mail checks to: NECA TRS P.O. Box 360090 Pittsburgh, PA 15251-6090. For additional information call NECA 973-884-8173

Mail worksheet and photocopy of checks to: NECA - FCC TRS Fund Administration 100 South Jefferson Rd. Whippany, NJ 07981

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER THE COMMUNICATIONS ACT, 47 U.S.C. 220(e)

FCC 431
March 1999